

Agency 51

Department of Labor—

Division of Workers Compensation

Editor's Note:

The Kansas Department of Human Resources was renamed the Kansas Department of Labor by Executive Reorganization Order No. 31. See L. 2004, Ch. 191.

Editor's Note:

This agency was formerly entitled "Workmen's Compensation Director," see Executive Reorganization Order No. 14 (L. 1976, ch. 354).

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Article 1.—FORMS

51-1-1. Forms. Forms filed with the division of workers' compensation, whether they are forms designated to be furnished by the division of workers' compensation or forms which are designated to be procured by the party filing the forms, shall be forms prescribed by or substitute forms approved by the director of workers' com-

pensation. (Authorized by K.S.A. 44-573; implementing K.S.A. 44-505, 44-508, 44-510b, 44-527, 44-532, 44-534, 44-534a, 44-542a, 44-543, 44-557, 44-567; effective Jan. 1, 1966; amended, E-74-31, July 1, 1974; amended May 1, 1975; amended May 1, 1983.)

51-1-2. (Authorized by K.S.A. 1977 Supp. 44-505, 44-557, 44-573; effective Jan. 1, 1966;

amended Jan. 1, 1969; amended Jan. 1, 1971; amended Jan. 1, 1973; amended Jan. 1, 1974; amended, E-74-31, July 1, 1974; amended May 1, 1975; amended May 1, 1976; amended Feb. 15, 1977; amended May 1, 1978; revoked May 1, 1983.)

51-1-3. (Authorized by K.S.A. 1977 Supp. 44-510, 44-573, 44-5a21; effective Jan. 1, 1966; amended Jan. 1, 1973; amended May 1, 1976; amended Feb. 15, 1977; amended May 1, 1978; revoked May 1, 1983.)

51-1-4. (Authorized by K.S.A. 44-510, 44-573; effective Jan. 1, 1966; amended Feb. 15, 1977; amended May 1, 1978; revoked May 1, 1983.)

51-1-5. (Authorized by K.S.A. 44-527, K.S.A. 1977 Supp. 44-573; effective Jan. 1, 1966; amended Jan. 1, 1971; amended Feb. 15, 1977; amended May 1, 1978; revoked May 1, 1983.)

51-1-6. (Authorized by K.S.A. 1977 Supp. 44-573; effective Jan. 1, 1966; amended Feb. 15, 1977; amended May 1, 1978; revoked May 1, 1983.)

51-1-7 and 51-1-8. (Authorized by K.S.A. 1977 Supp. 44-573; effective Jan. 1, 1966; amended Jan. 1, 1973; amended Jan. 1, 1974; amended Feb. 15, 1977; amended May 1, 1978; revoked May 1, 1983.)

51-1-8a. (Authorized by K.S.A. 1977 Supp. 44-534a, 44-573; effective, E-74-31, July 1, 1974; effective May 1, 1975; amended Feb. 15, 1977; amended May 1, 1978; revoked May 1, 1983.)

51-1-9. (Authorized by K.S.A. 1977 Supp. 44-573; effective Jan. 1, 1969; amended, E-74-31, July 1, 1974; amended May 1, 1975; amended Feb. 15, 1977; revoked May 1, 1978.)

51-1-10. (Authorized by K.S.A. 1977 Supp. 44-505, 44-573; effective Jan. 1, 1966; amended Jan. 1, 1969; amended, E-74-31, July 1, 1974; amended May 1, 1975; amended Feb. 15, 1977; amended May 1, 1978; revoked May 1, 1983.)

51-1-10a. (Authorized by K.S.A. 1977 Supp. 44-505, 44-573; effective, E-74-31, July 1, 1974; effective May 1, 1975; amended Feb. 15, 1977; amended May 1, 1978; revoked May 1, 1983.)

51-1-11. (Authorized by K.S.A. 1974 Supp.

44-573; effective Jan. 1, 1966; revoked, E-74-31, July 1, 1974; revoked May 1, 1975.)

51-1-11a. (Authorized by K.S.A. 1977 Supp. 44-542a, 44-573; effective, E-74-31, July 1, 1974; effective May 1, 1975; amended, E-76-23, May 30, 1975; amended May 1, 1976; amended Feb. 15, 1977; amended May 1, 1978; revoked May 1, 1983.)

51-1-11b. (Authorized by K.S.A. 1977 Supp. 44-573; effective, E-74-31, July 1, 1974; effective May 1, 1975; amended, E-76-23, May 30, 1975; amended May 1, 1976; amended Feb. 15, 1977; amended May 1, 1978; revoked May 1, 1983.)

51-1-12. (Authorized by K.S.A. 1974 Supp. 44-573; effective Jan. 1, 1966; revoked, E-74-31, July 1, 1974; revoked May 1, 1975.)

51-1-12a and 51-1-12b. (Authorized by K.S.A. 1977 Supp. 44-573; effective, E-74-31, July 1, 1974; effective May 1, 1975; amended, E-76-23, May 30, 1975; amended May 1, 1976; amended Feb. 15, 1977; amended May 1, 1978; revoked May 1, 1983.)

51-1-13. (Authorized by K.S.A. 1976 Supp. 44-573; effective Jan. 1, 1966; amended Jan. 1, 1969; amended Jan. 1, 1973; revoked Feb. 15, 1977.)

51-1-14. (Authorized by K.S.A. 44-573, 44-5a21; effective Jan. 1, 1966; amended Jan. 1, 1969; revoked Jan. 1, 1971.)

51-1-15 to 51-1-17. (Authorized by K.S.A. 44-573, 44-5a21; effective Jan. 1, 1966; revoked Jan. 1, 1971.)

51-1-18 and 51-1-19. Not in active use.

Editor's Note:

Transferred to 51-1-20 and 51-1-22 respectively.

51-1-20. (Authorized by K.S.A. 1977 Supp. 44-573, 44-5a21; effective Jan. 1, 1966; amended Jan. 1, 1973; amended Feb. 15, 1977; amended May 1, 1978; revoked May 1, 1983.)

51-1-21. Reserved.

51-1-22. (Authorized by K.S.A. 44-573; implementing K.S.A. 44-567; effective Jan. 1, 1966; amended Jan. 1, 1969; amended Jan. 1, 1973; amended July 1, 1974; amended Feb. 15, 1977; amended May 1, 1978; amended May 1, 1980; amended May 1, 1983; revoked May 22, 1998.)

51-1-23. (Authorized by K.S.A. 1977 Supp. 44-573; effective Jan. 1, 1966; amended Feb. 15, 1977; amended May 1, 1978; revoked May 1, 1983.)

51-1-24. (Authorized by K.S.A. 1977 Supp. 44-510b, 44-573; effective May 1, 1978; revoked May 1, 1983.)

51-1-25. (Authorized by K.S.A. 1977 Supp. 44-532, 44-573; effective May 1, 1978; revoked May 1, 1983.)

Article 2.—FEES

51-2-1. Administrative fees. (a) A fee of fifty (.50) cents per page for the first two pages reproduced and an additional ten (.10) cents for each subsequent page shall be charged for photocopying any instrument on file in the office of the workers' compensation director.

(b) An additional charge of fifty (.50) cents shall be made for certifying the copy of any instrument.

(c) A charge of two (2.00) dollars shall be made for obtaining a certification under the act of congress, plus fifty (.50) cents per page for copying the instruments to be certified.

(d) A charge to be levied by the director shall be made for each copy of the workers' compensation law book and each annual supplement.

The twenty (20) percent factor, which is provided in K.S.A. 74-715 and which applies to annual assessments of insurance carriers and self-insureds to be credited to the state general fund, shall not be computed on money collected for the sale of law books nor for copy charges, or other miscellaneous charges made to self-insureds or insurance carriers. (Authorized by K.S.A. 44-563; effective Jan. 1, 1966; amended Jan. 1, 1973; amended May 1, 1976; amended Feb. 15, 1977; amended May 1, 1978.)

51-2-2. (Authorized by K.S.A. 1972 Supp. 44-573; effective Jan. 1, 1966; amended Jan. 1, 1969; amended Jan. 1, 1973; revoked May 1, 1983.)

51-2-3. Not in active use.

Editor's Note:

Transferred to 51-2-4.

51-2-4. Distribution of transcripts of hearing or deposition. (a) Each shorthand reporter who takes and transcribes the proceedings at a hearing or testimony at a deposition, either of

which is to be used as evidence in a claim before the division of workers compensation, shall furnish the original transcript of that hearing or deposition to the administrative law judge, one copy to the employer, insurance carrier or its attorney, and one copy to the claimant or the claimant's attorney.

(b) In cases involving the workers compensation fund, the reporter shall also furnish one copy of the transcript of hearing or deposition to the attorney representing that fund.

(c) In settlement cases, the reporter shall furnish the original transcript to the director within two weeks. The transcript of the settlement hearing shall constitute a written final award. Copies of the settlement transcript shall be furnished to other parties only on request. Settlement transcripts shall be bound only by stapling without front or back covers. Reporters' fees in settlement cases shall be paid by the respondent unless otherwise indicated in the settlement.

(d) The fees of the reporter for hearings and depositions, including all copies furnished as provided above, shall be paid by the respondent upon completion of the transcript by the reporter. The fees shall be assessed by the administrative law judge in the final award. If the fees are assessed against a party other than the respondent and if the respondent has paid the fees, the party against whom they are assessed shall make the necessary reimbursement.

(e) A determination of the reasonableness of a reporter fee shall be made by the administrative law judge if this fee is challenged. (Authorized by K.S.A. 44-573; implementing K.S.A. 44-552; effective Jan. 1, 1966; amended Jan. 1, 1969; amended Jan. 1, 1973; amended, E-74-31, July 1, 1974; amended May 1, 1975; amended Feb. 15, 1977; amended May 1, 1980; amended May 1, 1983; amended May 22, 1998.)

51-2-5. Special local administrative law judge fees and expenses. (a) The fees for the services of each special local administrative law judge shall be as follows:

(1) A fee of \$50.00 shall be assessed for each settlement hearing that is heard as part of a regular settlement docket.

(2) A fee of \$50.00 shall be assessed for each settlement hearing that is heard at an individual setting.

(3) A fee of \$100.00 shall be assessed for each

preliminary hearing, including a preliminary award, and for each full hearing.

(4) A fee of \$100.00 shall be assessed for each prehearing settlement conference.

(5) A fee of \$85.00 per hour shall be assessed for preparing and rendering a final award. The total fee shall not exceed \$500.00.

(b) If a special local administrative law judge incurs expenses conducting one or more settlement hearings in a location other than the judge's home community, the expenses shall be assessed, as costs, proportionately among the cases generating the expenses. (Authorized by K.S.A. 2004 Supp. 44-551 and K.S.A. 44-573; implementing K.S.A. 2004 Supp. 44-551; effective, T-84-16, July 26, 1983; amended, T-88-20, July 1, 1987; effective May 1, 1988; amended May 22, 1998; amended Nov. 14, 2005.)

51-2-6. Interpreters and interpreters' fees. A qualified interpreter shall be appointed for each person whose primary language is one other than English or who is deaf, hard-of-hearing, or speech-impaired, for all hearings before an administrative law judge or the workers compensation board. A reasonable fee for the services of the interpreter shall be determined and fixed by the administrative law judge or the workers compensation board. The fee shall be paid by the respondent and shall not be assessed against the person whose primary language is one other than English or who is deaf, hard-of-hearing, or speech-impaired. (Authorized by K.S.A. 44-573; implementing K.S.A. 44-523, 44-534a, 44-551 as amended by L. 2001, ch. 121, sec. 4; effective June 21, 2002.)

Article 3.—TERMINATION OF COMPENSABLE CASES

51-3-1. Methods of termination. Compensable cases shall be determined and terminated by only five procedures under the act:

(a) By filing a final receipt and release of liability pursuant to K.S.A. 44-527 and amendments thereto;

(b) by hearing and written award;

(c) by joint petition and stipulation subject to K.A.R. 51-3-16;

(d) by settlement hearing before an administrative law judge; or

(e) by voluntary dismissal by the parties. (Authorized by K.S.A. 44-573; implementing K.S.A. 44-521, 44-523, 44-534; effective Jan. 1, 1966;

amended Jan. 1, 1969; amended Jan. 1, 1973; amended, E-74-31, July 1, 1974; amended May 1, 1975; amended Feb. 15, 1977; amended May 1, 1978; amended May 1, 1983; amended May 22, 1998; amended June 21, 2002.)

51-3-2. Final receipt and release of liability. A final receipt and release of liability shall cover all compensation paid and shall not be taken until the disability has terminated, or in case of permanent partial disability, until a final determination of the percentage of that permanent partial disability can be definitely ascertained. No compromise settlements shall be made on a final receipt and release of liability. The physician's report or reports accompanying the final receipt and release of liability shall conform to the amount paid for the disability except when the rating is an average of the ratings expressed by the doctors.

Dates and figures required shall be specific and accurate, and only in exceptional instances where explanation is necessary may insertions or additions be made.

The final receipt and release of liability shall be signed by the claimant, and the signature shall be notarized. The final receipt and release of liability form shall be accompanied by a physician's final report and by an accident report if the report has not already been filed with the division of workers compensation. (Authorized by K.S.A. 44-573; implementing K.S.A. 44-527; effective Jan. 1, 1966; amended Jan. 1, 1973; amended Feb. 15, 1977; amended May 1, 1978; amended May 1, 1983; amended June 21, 2002.)

51-3-3. Disapproving final receipt and release of liability. A final receipt and release of liability shall be disapproved by the director unless it meets the following requirements:

(a) The form shall be filled out completely.

(b) The form shall be accompanied by a physician's report, and the substance of the report shall conform to the information contained in the final receipt and release of liability.

(c) The form shall show that compensation has been paid in conformity with the requirements of the act.

(d) The form shall be filed within 60 days of execution.

(e) The form shall be executed within 60 days of the last payment of compensation.

(f) The form shall have the notarized signature of the claimant. (Authorized by K.S.A. 44-573, 44-5a21; implementing K.S.A. 44-527; effective Jan.

1, 1966; amended Feb. 15, 1977; amended May 1, 1978; amended May 1, 1980; amended June 21, 2002.)

51-3-4. Setting aside final receipt and release of liability. To commence a proceeding to set aside a final receipt and release of liability, the party requesting the proceeding shall file with the director an application containing all necessary facts, together with an application for hearing, in the same manner as the procedure required for a claim to determine compensation.

The test to determine if the final receipt and release of liability should be set aside shall be whether it provides compensation for the injuries sustained in the accident or the disability from occupational disease for which the claim was made. (Authorized by K.S.A. 44-573; implementing K.S.A. 44-527; effective Jan. 1, 1966; amended Jan. 1, 1969; amended Jan. 1, 1973; amended Feb. 15, 1977; amended May 1, 1978; amended May 1, 1983; amended June 21, 2002.)

51-3-5. Submission letters. If there is a dispute between the employer and the worker as to the compensation due and hearings are held before the administrative law judge for a determination of the issues, upon completion of submission of its evidence, each party shall write to the administrative law judge a letter submitting the case for decision. The administrative law judge shall not stay a decision due to the absence of a submission letter filed in a timely manner. The submission letter shall contain a list of the evidence to be considered by the administrative law judge in arriving at a decision. That list shall include the following information:

(a) The dates and name of the administrative law judge for each hearing held and a list of exhibits submitted at each hearing;

(b) the date and name of witnesses in each deposition taken and a list of exhibits submitted at each deposition;

(c) a description of any stipulations entered into by the parties outside of a hearing or deposition;

(d) a list of any other exhibits that should be contained in the record;

(e) an itemization of all medical expenses that are in issue;

(f) an itemization of all medical expenses not in issue but that a party wishes itemized in the award; and

(g) a list of the issues to be decided by the ad-

ministrative law judge, together with a list of those items to which the parties have stipulated. (Authorized by K.S.A. 44-573; implementing K.S.A. 44-523, as amended by L. 1997, Ch. 125, Sec. 6, and K.S.A. 44-534, as amended by L. 1997, Ch. 125, Sec. 8; effective Jan. 1, 1966; amended Jan. 1, 1969; amended Jan. 1, 1973; amended Jan. 1, 1974; amended Feb. 15, 1977; amended May 1, 1978; amended May 1, 1983; amended May 22, 1998.)

51-3-5a. Procedure for preliminary hearings. (a) Medical reports or any other records or statements shall be considered by the administrative law judge at the preliminary hearing. However, the reports shall not be considered as evidence when the administrative law judge makes a final award in the case, unless all parties stipulate to the reports, records, or statements or unless the report, record, or statement is later supported by the testimony of the physician, surgeon, or other person making the report, record, or statement.

If medical reports are not available or have not been produced before the preliminary hearing, either party shall be entitled to an ex parte order for production of the reports upon motion to the administrative law judge.

(b) If the decision of the administrative law judge is not rendered within five days of the hearing, the applicant's attorney shall notify the director, who shall make demand upon the administrative law judge for this decision.

(c) In no case shall an application for preliminary hearing be entertained by the administrative law judge when written notice has not been given to the adverse party pursuant to K.S.A. 44-534a. (Authorized by K.S.A. 44-573; implementing K.S.A. 1996 Supp. 44-534a, as amended by L. 1997, Ch. 125, Sec. 9; effective May 1, 1976; amended Feb. 15, 1977; amended May 1, 1978; amended May 1, 1980; amended May 1, 1983; amended May 22, 1998.)

51-3-6. Out-of-state accidents; venue.

When an accident has occurred outside of the state of Kansas and the parties are subject to the jurisdiction of the Kansas workers compensation act, the county in which the hearing will be held shall be designated by the director. Applications by the employee or employer shall be considered in order to accommodate the parties in determining where a claim shall be set for hearing. (Authorized by K.S.A. 44-573 and implementing K.S.A. 44-549; effective Jan. 1, 1966; amended

Jan. 1, 1973; amended Feb. 15, 1977; amended May 1, 1978; amended May 22, 1998.)

51-3-7. (Authorized by K.S.A. 1972 Supp. 44-573; effective Jan. 1, 1966; amended Jan. 1, 1973; revoked Jan. 1, 1974.)

51-3-8. Pre-trial stipulations. The parties shall be prepared at the first hearing to agree on the claimant's average weekly wage except when the weekly wage is to be made an issue in the case. (a) Before the first hearing takes place, the parties shall exchange medical information and confer as to what issues can be stipulated to and what issues are to be in dispute in the case. The following stipulations shall be used by the parties in every case:

QUESTIONS TO CLAIMANT

1. In what county is it claimed that claimant met with personal injury by accident? (If in a different county from that in which the hearing is held, then the parties shall stipulate that they consent to the conduct of the hearing in the county in which it is being held.)

2. Upon what date is it claimed that claimant met with personal injury by accident?

QUESTIONS TO RESPONDENT

3. Does respondent admit that claimant met with personal injury by accident on the date alleged?

4. Does respondent admit that claimant's alleged accidental injury "arose out of and in the course" of claimant's employment?

5. Does respondent admit notice?

6. Does respondent admit that the relationship of employer and employee existed?

7. Does respondent admit that the parties are covered by the Kansas workers compensation act?

8. Does respondent admit that claim was made?

9. Did the respondent have an insurance carrier on the date of the alleged accident? What is the name of the insurance company? Was the respondent self-insured?

QUESTIONS TO BOTH PARTIES

10. What was the average weekly wage?

11. Has any compensation been paid?

12. Has any medical or hospital treatment been furnished? Is claimant making claim for any future medical treatment or physical restoration?

13. Has claimant incurred any medical or hos-

pital expense for which reimbursement is claimed?

14. What was the nature and extent of the disability suffered as a result of the alleged accident?

15. What medical and hospital expenses does the claimant have?

16. What are the additional dates of temporary total disability, if any are claimed?

17. Is there a need for the claimant to be referred for a vocational rehabilitation evaluation?

18. Is the workers compensation fund to be impleaded as an additional party?

19. What witnesses will each party have testify at hearing or by deposition in the trial of the case?

20. Have the parties agreed upon a functional impairment rating?

The same stipulations shall be used in occupational disease cases with the exception that questions regarding "accidental injury" shall be changed to discover facts concerning "disability from occupational disease" or "disablement."

(b) An informal pre-trial conference shall be held in each contested case before testimony is taken in a case. At these conferences the administrative law judge shall determine from the parties what issues have not been agreed upon. If the issues cannot be resolved, the stipulations and issues shall be made a part of the record.

(c) The respondent shall be prepared to admit any and all facts that the respondent cannot justifiably deny and to have payrolls available in proper form to answer any questions that might arise as to the average weekly wage. Evidence shall be confined to the matters actually ascertained to be in dispute. The administrative law judge shall not be bound by rules of civil procedure or evidence. Hearsay evidence may be admissible unless irrelevant or redundant.

(d) All parties shall be given reasonable opportunity to be heard. The testimony taken at the hearing shall be reported and transcribed. That testimony, together with documentary evidence introduced, shall be filed with the division of workers compensation, where the evidence shall become a permanent record. Any award or order made by the administrative law judge shall be set forth in writing, with copies mailed to the parties.

(e) Permission to withdraw admissions or stipulations shall be decided by the administrative law judge, depending on the circumstances in each instance.

(f) Subpoena forms shall be furnished by the director upon request. The party subpoenaing

witnesses shall be responsible for the completion, service, and costs in connection with the subpoenas. (Authorized by K.S.A. 44-573; implementing K.S.A. 44-523, as amended by L. 1997, Ch. 125, Sec. 6 and K.S.A. 1996 Supp. 44-551, as amended by L. 1997, Ch. 125, Sec. 12; effective Jan. 1, 1966; amended Jan. 1, 1969; amended Jan. 1, 1973; amended Jan. 1, 1974; amended May 1, 1976; amended Feb. 15, 1977; amended May 1, 1978; amended May 1, 1983; amended May 22, 1998.)

51-3-9. Medical evidence record for settlements. The administrative law judge shall not issue a settlement award unless: (a) the claimant personally testifies; (b) medical testimony by a competent physician is introduced as evidence, either by the oral testimony of that physician, or through a documentary report of a recent physical examination of the claimant as to the extent of the claimant's disabilities; and (c) any other testimony as the administrative law judge may require for the proper determination of the extent of disability and the amount of compensation due, if any. If documentary evidence of a medical report covering physical examination of the claimant is introduced in evidence, the claimant shall be able to testify that the claimant has read that report or had the report read to him or her, and that the claimant fully understands the medical evidence as to disability.

If the injured worker submits to hospitalization, the records of the hospitalization and treatment, properly identified, may be received in evidence at a hearing on a claim.

Medical and hospital expenses shall be made part of the record. (Authorized by K.S.A. 44-573; implementing K.S.A. 44-531; effective Jan. 1, 1966; amended Jan. 1, 1973; amended Feb. 15, 1977; amended May 1, 1983.)

51-3-10. (Authorized by K.S.A. 1977 Supp. 44-573; effective Jan. 1, 1974; amended, E-74-31, July 1, 1974; amended May 1, 1975; amended, E-76-23, May 30, 1975; amended May 1, 1976; revoked May 1, 1978.)

51-3-11. Not in active use.

Editor's Note:

Transferred to 51-3-13.

51-3-12. (Authorized by K.S.A. 1977 Supp. 44-573; effective Jan. 1, 1966; revoked May 1, 1978.)

51-3-13. (Authorized by K.S.A. 44-553, K.S.A. 1977 Supp. 44-573; effective Jan. 1, 1966; amended Jan. 1, 1973; amended Feb. 15, 1977; revoked May 1, 1978.)

51-3-14. (Authorized by K.S.A. 1977 Supp. 44-573; effective Jan. 1, 1966; amended Jan. 1, 1973; revoked May 1, 1978.)

51-3-15. (Authorized by K.S.A. 1977 Supp. 44-573; effective Jan. 1, 1966; amended Jan. 1, 1969; revoked May 1, 1978.)

51-3-16. Closing cases by joint petition and stipulation. If the claimant resides out of the state of Kansas and it would be a hardship to require the claimant to return to the state of Kansas for hearing and if the parties agree to settlement, the claim may be closed by an award on joint petition and stipulation. Joint petition and stipulation may also be used in death cases where the liability and the entitlement to compensation is clearly defined.

The format to be followed in submitting a case on joint petition and stipulation shall be substantially as set out in a format furnished by the division of workers' compensation.

In cases involving death, the joint petition shall be accompanied by certified copies of the certificate of death, marriage certificate, birth certificates, copies of letters of guardianship and conservatorship, if appropriate, and copies of journal entries of divorce if a prior marriage puts question on a spouse's entitlement to compensation. (Authorized by K.S.A. 44-573; implementing K.S.A. 44-531; effective Jan. 1, 1966; amended Jan. 1, 1973; amended May 1, 1978; amended May 1, 1983.)

51-3-17. (Authorized by K.S.A. 44-573; implementing K.S.A. 44-512; effective Jan. 1, 1966; amended Jan. 1, 1973; amended Feb. 15, 1977; amended May 1, 1983; revoked May 22, 1998.)

51-3-18. (Authorized by K.S.A. 1974 Supp. 44-573; effective Jan. 1, 1966; amended Jan. 1, 1973; revoked, E-74-31, July 1, 1974; revoked May 1, 1975.)

51-3-18a. Not in active use.

Editor's Note:

Transferred to 51-3-19.

51-3-19. (Authorized by K.S.A. 1977 Supp. 44-532a, 44-566a, 44-573; effective, E-74-31, July 1, 1974; effective May 1, 1975; amended, E-76-

23, May 30, 1975; amended May 1, 1976; amended Feb. 15, 1977; revoked May 1, 1978.)

Article 4.—ATTORNEYS

51-4-1. (Authorized by K.S.A. 44-573; implementing K.S.A. 7-104; effective Jan. 1, 1966; amended Feb. 15, 1977; amended May 1, 1978; amended May 1, 1983; revoked May 22, 1998.)

51-4-2. (Authorized by K.S.A. 1977 Supp. 7-104, 44-536, 44-573; effective Jan. 1, 1969; amended May 1, 1975; revoked May 1, 1978.)

Article 5.—NOTICE OF ACCIDENT OR DISEASE

51-5-1. (Authorized by K.S.A. 1977 Supp. 44-520a, 44-573; effective Jan. 1, 1966; amended Jan. 1, 1969; revoked May 1, 1978.)

51-5-2. (Authorized by K.S.A. 1977 Supp. 44-520a, 44-573, 44-5a02, 44-5a21; effective Jan. 1, 1966; amended Feb. 15, 1977; revoked May 1, 1978.)

51-5-3. (Authorized by K.S.A. 1976 Supp. 44-573, 44-5a21; effective Jan. 1, 1974; amended Feb. 15, 1977; revoked May 1, 1983.)

Article 6.—CLAIM FOR COMPENSATION

51-6-1. (Authorized by K.S.A. 44-5a17, K.S.A. 1977 Supp. 44-520a, 44-573, 44-5a21; effective Jan. 1, 1966; amended Jan. 1, 1969; amended Jan. 1, 1973; amended May 1, 1976; amended Feb. 15, 1977; revoked May 1, 1978.)

Article 7.—MEASUREMENT OF DISABILITY

51-7-1. (Authorized by K.S.A. 1977 Supp. 44-510e, 44-573; effective Jan. 1, 1966; amended Jan. 1, 1969; amended Jan. 1, 1973; amended, E-74-31, July 1, 1974; amended May 1, 1975; amended Feb. 15, 1977; revoked May 1, 1978.)

51-7-2. Days expressed as decimal. In computing compensation for fractional parts of a week, record: one day as .14 of a week; two days as .29; three days as .43; four days as .57; five days as .71; and six days as .86. Compensation due shall be determined on the basis of a seven-day week. When the last day of disability is on a Sunday, compensation shall be paid for that day of disability. (Authorized by K.S.A. 44-573; implement-

ing K.S.A. 44-510c; effective Jan. 1, 1966; amended May 1, 1983.)

51-7-3. (Authorized by K.S.A. 1977 Supp. 44-510d, 44-573; effective Jan. 1, 1966; amended Jan. 1, 1969; amended Jan. 1, 1971; amended Jan. 1, 1973; amended, E-74-31, July 1, 1974; amended May 1, 1975; amended Feb. 15, 1977; amended May 1, 1978; revoked May 1, 1983.)

51-7-4. (Authorized by K.S.A. 1977 Supp. 44-510, 44-573; effective Jan. 1, 1966; amended Jan. 1, 1973; revoked May 1, 1978.)

51-7-5. (Authorized by K.S.A. 1972 Supp. 44-573; effective Jan. 1, 1966; amended Jan. 1, 1973; revoked May 22, 1998.)

51-7-6. (Authorized by K.S.A. 1976 Supp. 44-573; effective Jan. 1, 1966; amended Feb. 15, 1977; revoked May 22, 1998.)

51-7-7. (Authorized by K.S.A. 1977 Supp. 44-510, 44-573; effective Jan. 1, 1966; amended Feb. 15, 1977; revoked May 1, 1978.)

51-7-8. Computation of compensation.

(a)(1) If a worker suffers a loss to a member and, in addition, suffers other injuries contributing to the temporary total disability, compensation for the temporary total disability shall not be deductible from the scheduled amount for those weeks of temporary total disability attributable to the other injuries.

(2) The weekly compensation rate for temporary total compensation shall be computed by multiplying .6667 times the worker's gross average weekly wage. This figure shall be subject to the statutory maximum set in K.S.A. 44-510c.

(b) If a healing period of 10% of the schedule or partial schedule is granted, not exceeding 15 weeks, it shall be added to the weeks on the schedule or partial schedule before the following computations are made.

(1) If a loss of use occurs to a scheduled member of the body, compensation shall be computed as follows:

(A) deduct the number of weeks of temporary total compensation from the schedule;

(B) multiply the difference by the percent of loss or use to the member; and

(C) multiply the result by the applicable weekly temporary total compensation rate.

(2) If part of a finger, thumb, or toe is amputated, compensation shall be calculated as follows:

(A) multiply the percent of loss, as governed by

K.S.A. 1996 Supp. 44-510d, as amended, by the number of weeks on the full schedule for that member;

(B) deduct the temporary total compensation; and

(C) multiply the remainder by the weekly temporary total compensation rate.

(3) If a scheduled member other than a part of a finger, thumb, or toe is amputated, compensation shall be computed by multiplying the number of weeks on the schedule by the worker's weekly temporary total compensation rate. The temporary total compensation previously paid shall be deducted from the total amount allowed for the member.

(c)(1) An injury involving the metacarpals shall be considered an injury to the hand. An injury involving the metatarsals shall be considered an injury to the foot.

(2) If the injury results in loss of use of one or more fingers and also a loss of use of the hand, the compensation payable for the injury shall be on the schedule for the hand. Any percentage of permanent partial loss of use of the hand shall be at least sufficient to equal the compensation payable for the injuries to the finger or fingers alone.

(3) An injury involving the hip joint shall be computed on the basis of a disability to the body as a whole.

(4) An injury at the joint on a scheduled member shall be considered a loss to the next higher schedule.

(5) If the tip of a finger, thumb, or toe is amputated, the amputation does not go through the bone, and it is determined that a disability exists, the disability rating shall be based on a computation of a partial loss of use of the entire finger. (Authorized by K.S.A. 1996 Supp. 44-510d and K.S.A. 44-573; implementing K.S.A. 1996 Supp. 44-510d; effective Jan. 1, 1966; amended Jan. 1, 1971; amended Jan. 1, 1973; amended, E-74-31, July 1, 1974; amended May 1, 1975; amended Feb. 15, 1977; amended May 1, 1978; amended May 1, 1983; amended, T-88-20, July 1, 1987; amended May 1, 1988; amended May 22, 1998.)

51-7-9 and 51-7-10. Not in active use.

Editor's Note:

Transferred to 51-7-11 and 51-7-12, respectively.

51-7-11. (Authorized by K.S.A. 1977 Supp. 44-510, 44-573; effective Jan. 1, 1966; amended Feb. 15, 1977; revoked May 1, 1978.)

51-7-12. (Authorized by K.S.A. 1977 Supp. 44-510d, 44-573; effective Jan. 1, 1966; amended Jan. 1, 1973; amended Feb. 15, 1977; amended May 1, 1978; revoked May 1, 1983.)

51-7-13. (Authorized by K.S.A. 1972 Supp. 44-510d, 44-573; effective Jan. 1, 1966; amended Jan. 1, 1973; revoked May 1, 1983.)

51-7-14. (Authorized by K.S.A. 1974 Supp. 44-510c, 44-510d, 44-573; effective Jan. 1, 1966; amended Jan. 1, 1973; revoked, E-74-31, July 1, 1974; revoked May 1, 1975.)

51-7-15. (Authorized by K.S.A. 1977 Supp. 44-510, 44-573; effective Jan. 1, 1966; revoked May 1, 1978.)

51-7-16. (Authorized by K.S.A. 1977 Supp. 44-510a, 44-573; effective Jan. 1, 1969; amended Jan. 1, 1973; amended, E-74-31, July 1, 1974; amended May 1, 1975; revoked May 1, 1978.)

Article 8.—COMPENSATION FOR EYE INJURIES

51-8-1. (Authorized by K.S.A. 1977 Supp. 44-510, 44-573; effective Jan. 1, 1966; revoked May 1, 1978.)

51-8-2. (Authorized by K.S.A. 44-573; implementing K.S.A. 44-510d; effective Jan. 1, 1966; amended May 1, 1978; amended May 1, 1983; revoked May 22, 1998.)

51-8-3. (Authorized by K.S.A. 44-573; implementing K.S.A. 44-510d; effective Jan. 1, 1966; amended May 1, 1978; amended May 1, 1983; revoked May 22, 1998.)

51-8-4. (Authorized by K.S.A. 44-573; implementing K.S.A. 44-510d; effective Jan. 1, 1966; amended May 1, 1978; amended May 1, 1983; revoked May 22, 1998.)

51-8-5. (Authorized by K.S.A. 44-573; implementing K.S.A. 44-510d; effective Jan. 1, 1966; amended May 1, 1978; amended May 1, 1983; revoked May 22, 1998.)

51-8-6. (Authorized by K.S.A. 44-573; implementing K.S.A. 44-510d; effective Jan. 1, 1966; amended May 1, 1978; amended May 1, 1983; revoked May 22, 1998.)

51-8-7. (Authorized by K.S.A. 44-573; implementing K.S.A. 44-510d; effective Jan. 1, 1966; amended Jan. 1, 1973; amended, E-74-31, July 1, 1974; amended May 1, 1975; amended Feb. 15,

1977; amended May 1, 1978; amended May 1, 1983; revoked May 22, 1998.)

51-8-8. (Authorized by K.S.A. 1977 Supp. 44-510d; effective Jan. 1, 1966; amended Jan. 1, 1973; amended, E-74-31, July 1, 1974; amended May 1, 1975; revoked May 1, 1978.)

51-8-9. (Authorized by K.S.A. 1977 Supp. 44-510, 44-573; effective Jan. 1, 1966; amended Jan. 1, 1971; amended Feb. 15, 1977; amended May 1, 1978; revoked May 22, 1998.)

51-8-10. (Authorized by K.S.A. 44-573; implementing K.S.A. 44-510d; effective Jan. 1, 1966; amended Jan. 1, 1971; amended May 1, 1978; amended May 1, 1983; revoked May 22, 1998.)

51-8-11. (Authorized by K.S.A. 1977 Supp. 44-510, 44-573; effective Jan. 1, 1966; amended Jan. 1, 1971; amended Jan. 1, 1973; amended, E-74-31, July 1, 1974; amended May 1, 1975; amended May 1, 1978; revoked May 1, 1983.)

Article 9.—MEDICAL AND HOSPITAL

51-9-1. (Authorized by K.S.A. 1977 Supp. 44-510, 44-573; effective Jan. 1, 1966; amended Jan. 1, 1969; amended Jan. 1, 1971; amended Jan. 1, 1973; amended, E-74-31, July 1, 1974; amended May 1, 1975; amended Feb. 15, 1977; revoked May 1, 1978.)

51-9-2. Appliances. The word “apparatus”, contained in K.S.A. 44-510, shall mean such appliances as glasses, teeth, or artificial member.

When an appliance or apparatus is already being worn, and its usefulness is destroyed by an accident, the question as to whether the appliance is to be replaced as medical expense is one to be determined on the facts in each individual case. If an incident in direct connection with the work being done causes the destruction of the appliance being worn, it will be determined that personal injury by accident resulted, and the appliance is to be replaced as medical expense. (Authorized by K.S.A. 1977 Supp. 44-510, 44-573; effective Jan. 1, 1966; amended Feb. 15, 1977; amended May 1, 1978.)

51-9-3. (Authorized by K.S.A. 1974 Supp. 44-510, 44-573; effective Jan. 1, 1966; amended Jan. 1, 1969; amended Jan. 1, 1971; revoked, E-74-31, July 1, 1974; revoked May 1, 1975.)

51-9-4. (Authorized by K.S.A. 1976 Supp. 44-510, 44-573; effective Jan. 1, 1966; amended

Feb. 15, 1977; amended May 1, 1980; revoked May 1, 1983.)

51-9-5. Refusal to submit to medical treatment. An unreasonable refusal of the employee to submit to medical or surgical treatment, when the danger to life would be small and the probabilities of a permanent cure great, may result in denial or termination of compensation beyond the period of time that the injured worker would have been disabled had the worker submitted to medical or surgical treatment, but only after a hearing as to the reasonableness of such refusal. (Authorized by K.S.A. 44-573; implementing K.S.A. 44-518, K.S.A. 1996 Supp. 44-510, as amended by L. 1997, Ch. 125, Sec. 4, and K.S.A. 44-573; effective Jan. 1, 1966; amended Jan. 1, 1973; amended May 1, 1978; amended May 22, 1998.)

51-9-6. Neutral physician. If a neutral physician is appointed, the written report of that neutral physician shall be made a part of the record of hearing. Either party may cross examine each neutral physician so employed. The fee of the neutral physician giving such testimony shall be assessed as costs to a party at the administrative law judge’s discretion. (Authorized by K.S.A. 44-573; implementing K.S.A. 44-516; effective Jan. 1, 1966; amended Jan. 1, 1973; amended, E-74-31, July 1, 1974; amended May 1, 1975; amended May 1, 1978; amended May 1, 1983.)

51-9-7. Fees for medical and hospital services. Fees for medical, surgical, hospital, dental, and nursing services, medical equipment, medical supplies, prescriptions, medical records, and medical testimony rendered pursuant to the Kansas workers compensation act shall be the lesser of the usual and customary charge of the health care provider, hospital, or other entity providing the health care services or the amount allowed by the “workers compensation schedule of medical fees” published by the Kansas department of labor, dated January 1, 2008, and approved by the director of workers compensation on June 15, 2007, including the ground rules incorporated in the schedule and the appendices, which is hereby adopted by reference.

This regulation shall be effective on and after January 1, 2008. (Authorized by and implementing K.S.A. 2006 Supp. 44-510i; effective Jan. 1, 1966; amended Jan. 1, 1969; amended Jan. 1, 1973; amended May 1, 1976; amended May 1,

1978; amended, T-88-20, July 1, 1987; amended May 1, 1988; amended Nov. 1, 1993; amended April 5, 1996; amended Aug. 29, 1997; amended Oct. 1, 1999; amended Dec. 1, 2001; amended Dec. 1, 2003; amended Dec. 2, 2005; amended Jan. 1, 2008.)

51-9-8. (Authorized by K.S.A. 1974 Supp. 44-510, 44-573; effective Jan. 1, 1966; amended Jan. 1, 1973; revoked, E-74-31, July 1, 1974; revoked May 1, 1975.)

51-9-9. (Authorized by K.S.A. 1977 Supp. 44-510, 44-515, 44-573; effective Jan. 1, 1966; amended Jan. 1, 1973; revoked May 1, 1978.)

51-9-10. Medical bills, reports, and treatment. (a) Upon the completion of treatment in all compensation cases, physicians shall promptly notify the employer or carrier, and shall render their final bills forthwith. Bills for medical care providers and hospitals shall be itemized showing the date and the charge for services rendered. Separate bills should be presented to the employer or carrier by each surgeon, assistant, anesthetist, consultant, hospital, or nurse. In cases requiring prolonged treatment, physicians should submit partial bills, fully itemized, at intervals of at least 60 days.

(b)(1) Medical reports of the physician should be submitted on a periodic basis depending upon the nature and severity of the injuries involved and, in all cases, immediately upon request of the respondent or insurance carrier. A report shall be rendered on the date on which the physician releases the worker to return to work and forwarded to the employer or insurance carrier and to the employee, if requested.

(2) In cases of amputation, the physician shall mark the exact point of amputation on a diagram showing the member involved.

(3) The patient privilege preventing the furnishing of medical information by doctors and hospitals is waived by a worker seeking workers compensation benefits, and all reports, records, or other data concerning examinations or treatment shall be furnished to the employer or insurance carrier or the director at that individual's request without the necessity of a release by the worker.

(4) Unreasonable refusal by the worker to cooperate with the employer or insurance carrier or the director by failing to furnish medical information releases for the worker's medical history

may result in compensation being denied or terminated after hearing before the director.

(5) The employee shall immediately be furnished a copy of any medical report that authorizes return to work.

(c) Nurses, whether registered or practical, shall be furnished in an institution or the worker's home when the treating doctor recommends this nursing care. Nursing service by a member of the worker's family shall be provided if approved in advance by the treating physician. (Authorized by K.S.A. 1996 Supp. 44-510, as amended by L. 1997, Ch. 125, Sec. 4 and K.S.A. 44-573; effective Jan. 1, 1966; amended Jan. 1, 1969; amended Jan. 1, 1971; amended Jan. 1, 1973; amended, E-74-31, July 1, 1974; amended May 1, 1975; amended, E-76-23, May 30, 1975; amended Feb. 15, 1977; amended May 1, 1978; amended May 22, 1998.)

51-9-11. Transportation to obtain medical treatment. (a) It shall be the duty of the employer to provide transportation to obtain medical services to and from the home of the injured employee whether those services are outside the community in which the employee resides or within the community.

(b) The employer shall reimburse the worker for the reasonable cost of transportation under the following conditions:

(1) if an injured worker does not have a vehicle or reasonable access to a vehicle of a family member living in the worker's home; or

(2) if the worker, because of the worker's physical condition, cannot drive and must therefore hire transportation to obtain medical treatment.

Reimbursement may include, among other things, reimbursement for the cost of taxi service, other public transportation, and ambulance service, if required by a physician, and for the cost of hiring another individual to drive the worker for medical treatment. Any charges presented to the employer or insurance carrier for payment shall be a fair and reasonable amount based on the customary charges for those services.

(c) If an injured worker drives that worker's own vehicle or drives, or is driven in, a vehicle of a family member living in the home of the worker, and if any round trip exceeds five miles, the respondent and insurance carrier shall reimburse the worker for an amount comparable to the mileage expenses provided in K.S.A. 44-515.

(d) In any dispute in regard to charges for mileage expenses, and on application by any party to

the proceedings, the reasonable cost of transportation shall be determined by a hearing before a workers compensation administrative law judge. (Authorized by K.S.A. 44-573; implementing K.S.A. 1996 Supp. 44-510, as amended by L. 1997, Ch. 125, Sec. 4; effective May 1, 1980; amended May 1, 1983; amended May 22, 1998.)

51-9-12 through 51-9-14. (Authorized by K.S.A. 44-573 and K.S.A. 1996 Supp. 44-510, as amended by L. 1997, Ch. 125, Sec. 4; implementing K.S.A. 1996 Supp. 44-510, as amended by L. 1997, Ch. 125, Sec. 4; effective May 22, 1998; revoked June 21, 2002.)

51-9-15. Requirements for submission of data. (a) Each insurance carrier, self-insured employer, and group-funded workers compensation pool selected to provide information to the director's database on claim characteristics and costs shall submit this information according to the instructions in the Kansas department of health and environment's "Kansas workers compensation health insurance information system technical manual, 2002," published January 1, 2002 and hereby adopted by reference.

(b) Each health care facility selected to provide information to the director's database on claim characteristics and costs shall submit a statistical sampling of diagnosis-related groups (DRG) for hospital inpatient care if required by the director. (Authorized by K.S.A. 74-717, 44-557a, 44-573; implementing K.S.A. 44-557a, 74-716; effective Aug. 9, 2002.)

51-9-16. Submission of data on expenditures for health care services. (a) Each insurance carrier, self-insured employer, group-funded workers compensation pool, and health care facility shall submit a summary of medical records and related charges if either of the following conditions is met:

(1) The total cost for any workers compensation medical claim exceeds \$150,000.

(2) Any medical treatment in the workers compensation claim continues for more than 60 months.

(b) Complete medical and billing records may be required by the division to be submitted for individually selected claims or for randomly selected claims to evaluate trend developments. (Authorized by K.S.A. 74-717, 44-573; implementing K.S.A. 2001 Supp. 44-510i, K.S.A. 74-716; effective Aug. 16, 2002.)

51-9-17. Release 1 standards for trading partner profiles; submission of data; first reports of injury. (a) Each insurer, group-funded workers compensation pool, and self-insured employer that chooses to participate in the electronic data interchange (EDI) program shall submit to the director a completed EDI trading partner profile at least 30 days before submitting claim information pursuant to the international association of industrial accident boards and commissions' release 1 standards, as provided in K.S.A. 44-557a and amendments thereto. The EDI trading partner profile shall be completed according to the "Kansas EDI release 1 implementation guide for reporting first (FROI) and subsequent (SROI) reports of injury," as revised on November 8, 2004 by the Kansas department of labor and hereby adopted by reference. This document shall be referred to as the "Kansas implementation guide" in this regulation.

(b) Each insurer, group-funded workers compensation pool, and self-insured employer shall report to the director within five days any changes to information submitted in the EDI trading partner profile.

(c) All claim information submitted pursuant to K.S.A. 44-557a, and amendments thereto, by electronic data interchange shall be submitted according to the Kansas implementation guide.

(d) All claim information submitted pursuant to K.S.A. 44-557a, and amendments thereto, and the Kansas implementation guide's first report of injury, commonly called "FROI 00," shall be considered the filing of an accident report pursuant to K.S.A. 44-557 and amendments thereto. This information shall not be open to public inspection, except as provided in K.S.A. 44-550b and amendments thereto.

(e) All claim information submitted pursuant to K.S.A. 44-557a, and amendments thereto, and the Kansas implementation guide shall be considered a medical record to the extent that the information refers to an individual worker's identity. No references in the claim information to an individual worker's identity shall be open to public inspection, except as provided in K.S.A. 44-550b and amendments thereto. For purposes of this regulation, the claim number used by an insurance carrier, self-insured employer, or group-funded workers compensation pool to identify an individual worker's claim shall be considered a reference to the individual worker's identity. (Authorized by K.S.A. 44-573 and K.S.A. 74-717; im-

plementing K.S.A. 2004 Supp. 44-550b, K.S.A. 44-557, K.S.A. 2004 Supp. 44-557a, and K.S.A. 74-716; effective Jan. 1, 2004; amended June 17, 2005.)

Article 10.—DEATH CASES

51-10-1. (Authorized by K.S.A. 44-527, K.S.A. 1977 Supp. 44-513a, 44-520a, 44-535, 44-549, 44-573; effective Jan. 1, 1966; amended Feb. 15, 1977; revoked May 1, 1978.)

51-10-2. (Authorized by K.S.A. 1977 Supp. 44-510, 44-511, 44-573; effective Jan. 1, 1966; amended Jan. 1, 1969; amended Jan. 1, 1971; amended Jan. 1, 1973; amended, E-74-31, July 1, 1974; amended May 1, 1975; amended, E-76-23, May 30, 1975; amended May 1, 1976; amended Feb. 15, 1977; revoked May 1, 1978.)

51-10-3. (Authorized by K.S.A. 1977 Supp. 44-510b, 44-511 and 44-573; effective Jan. 1, 1966; amended Jan. 1, 1969; amended Jan. 1, 1973; amended, E-74-31, July 1, 1974; amended May 1, 1975; amended Feb. 15, 1977; revoked May 1, 1978.)

51-10-4. (Authorized by K.S.A. 1974 Supp. 44-510, 44-573; effective Jan. 1, 1966; revoked, E-74-31, July 1, 1974; revoked May 1, 1975.)

51-10-4a. (Authorized by K.S.A. 1977 Supp. 44-510b, 44-573; effective, E-74-31, July 1, 1974; effective May 1, 1975; amended Feb. 15, 1977; revoked May 1, 1978.)

51-10-5. (Authorized by K.S.A. 1977 Supp. 44-510b, 44-573; effective Jan. 1, 1966; amended Jan. 1, 1969; amended, E-74-31, July 1, 1974; amended May 1, 1975; amended Feb. 15, 1977; revoked May 1, 1978.)

51-10-6. (Authorized by K.S.A. 44-573; implementing K.S.A. 44-509, 44-513a; effective Jan. 1, 1966; amended Jan. 1, 1973; amended Feb. 15, 1977; amended May 1, 1978; amended May 1, 1983; amended May 22, 1998; revoked June 21, 2002.)

51-10-7. (Authorized by K.S.A. 1977 Supp. 44-510b, 44-573; effective, E-74-31, July 1, 1974; effective May 1, 1975; amended Feb. 15, 1977; revoked May 1, 1978.)

Article 11.—WAGES

51-11-1. (Authorized by K.S.A. 1974 Supp. 44-573; effective Jan. 1, 1966; amended Jan. 1,

1973; amended, E-74-31, July 1, 1974; revoked May 1, 1975.)

51-11-1a. (Authorized by K.S.A. 1977 Supp. 44-510, 44-511, 44-573; effective May 1, 1975; amended Feb. 15, 1977; revoked May 1, 1978.)

51-11-2. (Authorized by K.S.A. 1977 Supp. 44-511, 44-573; effective Jan. 1, 1966; amended Jan. 1, 1973; amended, E-74-31, July 1, 1974; amended May 1, 1975; amended, E-76-23, May 30, 1975; amended May 1, 1976; amended Feb. 15, 1977; revoked May 1, 1978.)

51-11-3. (Authorized by K.S.A. 1974 Supp. 44-573; effective Jan. 1, 1966; amended Jan. 1, 1973; revoked May 1, 1975.)

51-11-3a. (Authorized by K.S.A. 1977 Supp. 44-511, 44-573; effective May 1, 1975; revoked May 1, 1978.)

51-11-4. (Authorized by K.S.A. 1977 Supp. 44-511, 44-573; effective Jan. 1, 1966; amended Jan. 1, 1973; amended May 1, 1975; amended Feb. 15, 1977; revoked May 1, 1978.)

51-11-5. (Authorized by K.S.A. 44-514, K.S.A. 1977 Supp. 44-573; effective Jan. 1, 1966; amended Feb. 15, 1977; revoked May 1, 1978.)

51-11-6. Computing employers gross payroll. In computing the gross annual payroll for an employer to determine whether they are subject to the workers' compensation act, all payroll paid by that employer to all workers shall be included. The computation shall include all payroll whether or not that payroll is paid to employees in the state of Kansas or outside the state of Kansas.

The provision in K.S.A. 44-505 excluding the payroll of workers who are members of the employer's family shall not apply to corporate employers.

A corporate employer's payroll for purposes of determining whether the employer is subject to the workers' compensation act shall be determined by the total amount of payroll paid to all corporate employees even when a corporate employee has elected out of the workers' compensation act pursuant to K.S.A. 44-543. (Authorized by K.S.A. 44-573; implementing K.S.A. 44-505, 44-543; effective May 1, 1978; amended May 1, 1983.)

**Article 12.—INJURIES OCCURRING
INSIDE OR OUTSIDE
THE STATE OF KANSAS**

51-12-1. (Authorized by K.S.A. 1977 Supp. 44-506, 44-573; effective Jan. 1, 1966; amended Jan. 1, 1973; amended, E-74-31, July 1, 1974; amended May 1, 1975; amended, E-76-23, May 30, 1975; amended May 1, 1976; amended Feb. 15, 1977; revoked May 1, 1978.)

51-12-2. Notices. (a) Employers operating under this act shall post notice in one or more conspicuous places advising employees what to do in case of injury. This notice form may be obtained at no cost from the division of workers compensation.

(b) Immediately upon receiving notice of injury or death of an employee, the employer shall mail or deliver to the employee or legal beneficiary a copy of the appropriate division of workers compensation form. (Authorized by K.S.A. 44-573; implementing K.S.A. 44-5,101 and K.S.A. 44-5,102; effective May 22, 1998.)

Article 13.—ELECTIONS

51-13-1. Employer's election to come under the act. (a)(1) A parent company shall not file an election to cover itself and a subsidiary; each entity shall file an election on its own behalf.

(2) Failure of an employer to cover its employees by means of insurance policy or through an approved self-insurance plan shall result in the employer being a non-qualified self-insurer and shall result in the employer paying direct compensation benefits to the injured employee.

(b) The election by individuals, partners, and all self-employed persons to bring themselves within the provision of the workers compensation act shall be signed by the individual or partner and by a representative of the insurance carrier issuing the insurance policy. (Authorized by K.S.A. 44-573; implementing K.S.A. 44-505, as amended by L. 1997, Ch. 125, Sec. 2; effective Jan. 1, 1966; amended Jan. 1, 1969; amended Jan. 1, 1973; amended, E-74-31, July 1, 1974; amended May 1, 1975; amended, E-76-23, May 30, 1975; amended May 1, 1976; amended Feb. 15, 1977; amended May 1, 1978; amended May 1, 1983; amended May 22, 1998.)

51-13-2. (Authorized by K.S.A. 44-542; effective Jan. 1, 1966; revoked, E-74-31, July 1, 1974; revoked May 1, 1975.)

51-13-2a. (Authorized by K.S.A. 1977 Supp. 44-573; effective May 1, 1975; revoked May 1, 1978.)

51-13-3. (Authorized by K.S.A. 1974 Supp. 44-543; effective Jan. 1, 1966; amended Jan. 1, 1973; revoked, E-74-31, July 1, 1974; revoked May 1, 1975.)

51-13-3a. (Authorized by K.S.A. 1977 Supp. 44-543, 44-573; effective May 1, 1975; revoked May 1, 1978.)

51-13-4. (Authorized by K.S.A. 44-505, 44-505a, 44-573; effective Jan. 1, 1966; revoked, E-74-31, July 1, 1974; revoked May 1, 1975.)

51-13-5. (Authorized by K.S.A. 1977 Supp. 44-573; effective, E-74-31, July 1, 1974; effective May 1, 1975; amended Feb. 15, 1977; revoked May 1, 1978.)

51-13-6. (Authorized by K.S.A. 1977 Supp. 44-543, 44-573; effective Feb. 15, 1977; revoked May 1, 1978.)

**Article 14.—SECURING PAYMENT OF
COMPENSATION BY INSURANCE
AND SELF-INSURANCE**

51-14-1. (Authorized by K.S.A. 1976 Supp. 44-532, 44-573; effective Jan. 1, 1966; amended Jan. 1, 1969; amended Jan. 1, 1971; amended Jan. 1, 1973; revoked Feb. 15, 1977.)

51-14-2. (Authorized by K.S.A. 1977 Supp. 44-532, 44-573; effective, E-74-31, July 1, 1974; effective May 1, 1975; amended May 1, 1976; amended Feb. 15, 1977; revoked May 1, 1978.)

51-14-3. (Authorized by K.S.A. 1977 Supp. 44-557a, 44-573; effective May 1, 1975; amended May 1, 1978; revoked May 1, 1983.)

51-14-4. Self-insurance. An employer operating under the act shall only become qualified as a self-insurer through the process of applying to the division of workers' compensation for a self-insurance permit. An employer making an application shall, upon the request of the director, submit information that the director may require to effectively evaluate the financial status of the employer. An application for a self-insurance permit or a self-insured employer seeking a renewal permit, shall, if the director requests, pay the fees of a consultant approved by the division of workers' compensation to determine if the employer has

the financial ability to become self-insured or to have his self-insurance permit renewed.

The applicant for a new permit or an employer seeking a renewal permit shall furnish to the division of workers' compensation a bond written by a surety company admitted to the state, and authorized by the Kansas insurance department to write surety bonds as required by the division. The bond shall be in an amount to adequately insure that if the employer should become insolvent, payments on all claims will be guaranteed to the injured workers.

The applicant for a new permit or an employer seeking a renewal permit shall furnish a certificate of excess insurance in an amount that may be required by the division of workers' compensation, and the division shall be notified by the self-insured and insurance carrier at least 20 days prior to the cancellation or non-renewal of any excess insurance policy. The excess workers' compensation insurance shall be in conformity with Kansas insurance statutes and regulations of the Kansas insurance commissioner.

An applicant for a new permit or an employer seeking a renewal permit shall set up financial reserves, furnish letters of credit or provide other security in amounts and in a manner directed by the division of workers' compensation to insure the payment of all workers' compensation claims as may be required by the Kansas workers' compensation act.

An employer shall furnish to the division of workers' compensation any other information the division may request which will aid in fairly and adequately evaluating an application for a new or a renewal permit for self-insurance.

The self-insurance permit of any employer shall expire on the anniversary date of the issuance of a self-insurance permit and any anniversary date thereafter, except when it has been renewed by the division prior to that date. The employer shall furnish any information that the division of workers' compensation may require to effectively evaluate an application to renew a self-insurance permit at least 45 days prior to the anniversary date of the original permit.

An employer whose original or renewal application for self-insurance has been denied, or who takes exception to insurance or reserve requirements may request a reconsideration by the division of workers' compensation. The request shall be made within 20 days of the receipt by the employer of the information which the applicant

wishes reconsidered. If the employer desires to have a record of the hearing, the reporter's costs shall be assessed to the employer. (Authorized by K.S.A. 44-573; implementing K.S.A. 44-505b, 44-505e, 44-505f, 44-532; effective Feb. 15, 1977; amended May 1, 1978; amended May 1, 1983; amended May 1, 1984.)

Article 15.—WORKERS COMPENSATION FUND

51-15-1. (Authorized by K.S.A. 44-566, K.S.A. 1972 Supp. 44-567, 44-568, 44-569, 44-569a, 44-570, 44-573; effective Jan. 1, 1966; amended Jan. 1, 1969; amended Jan. 1, 1973; revoked, E-74-31, July 1, 1974; revoked May 1, 1975.)

51-15-2. Workers compensation fund.

(a) Insurance carriers and self-insureds shall not withhold compensation from an injured employee during negotiations with the workers compensation fund but shall pay compensation due under the act and then seek reimbursement for any compensation paid.

(b) The workers compensation fund shall be entitled to a hearing on the question of its liability imposed by the provisions of K.S.A. 44-532a. The administrative law judge may award compensation pursuant to K.S.A. 44-532a against the workers compensation fund following a preliminary hearing if the fund was properly impleaded and given the statutory notice of the hearing.

(c) "First full hearing," as used in K.S.A. 44-567(c), as amended, means the first hearing before an administrative law judge, other than a preliminary hearing provided by K.S.A. 1996 Supp. 44-534a, as amended, at which pre-trial stipulations are taken and testimony is presented. (Authorized by K.S.A. 44-573; implementing K.S.A. 44-566, K.S.A. 1996 Supp. 44-566a, as amended by L. 1997, Ch. 125, Sec. 15, K.S.A. 44-569, K.S.A. 44-569a, and K.S.A. 1996 Supp. 44-534a, as amended by L. 1997, Ch. 125, Sec. 9; effective, E-74-31, July 1, 1974; effective May 1, 1975; amended May 1, 1976; amended Feb. 15, 1977; amended May 1, 1978; amended May 1, 1982; amended, T-88-20, July 1, 1987; amended May 1, 1988; amended May 22, 1998.)

51-15-3. (Authorized by K.S.A. 1977 Supp. 44-566, 44-566a, 44-569, 44-569a, 44-570, 44-575; effective May 1, 1975; revoked May 1, 1978.)

Article 16.—SUBCONTRACTING

51-16-1. (Authorized by K.S.A. 1977 Supp. 44-503; effective Jan. 1, 1966; amended Jan. 1, 1969; amended Jan. 1, 1973; amended Feb. 15, 1977; revoked May 1, 1978.)

Article 17.—TIME, COMPUTATION AND EXTENSION

51-17-1. (Authorized by K.S.A. 60-206, K.S.A. 1972 Supp. 44-573; effective Jan. 1, 1966; amended Jan. 1, 1973; revoked June 21, 2002.)

51-17-2. Facsimile filing. Any party may file by fax directly to the division of workers compensation.

(a) Definitions. As used in this rule, unless the context requires otherwise, these definitions shall apply.

(1) "Document" includes not more than one pleading and all exhibits.

(2) "Facsimile filing" or "filing by fax" means the facsimile transmission of a document to the division for filing with the division.

(3) "Facsimile machine" means a machine that can send a facsimile transmission.

(4) "Facsimile transmission" means the transmission of a copy of a document by a system that encodes a document into electronic signals, transmits the signals over a telephone line, and reconstructs the signals to print a duplicate of the document at the receiving end.

(5) "Fax" is an abbreviation for "facsimile" and refers, as indicated by the context, to facsimile transmission or to a document so transmitted.

(6) "Fax filing agency" means an entity that receives documents by fax for processing and filing with the division.

(7) "Service by fax" means the transmission of a document to a party under these rules.

(8) "Transmission record" means the document printed by the sending facsimile machine stating the telephone number of the receiving machine, the number of pages sent, the transmission time, and an indication of errors in transmission.

(b) Form of documents.

(1) The document placed in the transmitting fax machine shall comply with all applicable rules on the form, format, and signature of papers.

(2) The first page of each document filed by fax shall include the words "by fax." Each page shall be numbered and shall include an abbreviated caption of the case and an abbreviated title

of the document. The attorney shall also include the attorney's name, address, telephone number, fax number, and supreme court registration number on the document.

(3) The cover sheet required by paragraph (c)(3) and any special processing instructions are not included in the 10-page limitation in (c)(1).

(c) Methods of filing.

(1) A party may file by fax directly to the division of workers compensation, at the facsimile numbers authorized, a document of not more than 10 pages, excluding the required cover sheet. A document may not be split into multiple fax transmissions to avoid the page limitation.

(2) The facsimile machine shall be available on a 24-hour basis. This provision shall not prevent the division from sending documents by fax or providing for normal repair and maintenance of the fax machine. Facsimile filings received in the division shall be deemed filed as of the time printed by the division facsimile machine on the final page of the facsimile document received.

(3) Each facsimile document filed shall be accompanied by the facsimile transmission cover sheet, which shall contain the date, the docket number, case caption, attorney name, address, supreme court registration number, telephone and fax number, and the name of the document. The cover sheet shall be the first page transmitted.

(4) A party filing by fax shall cause the transmitting facsimile machine to print a transmission record of each filing by fax. If the facsimile filing is not filed with the division because of an error in the transmission of the document the occurrence of which was unknown to the sender, or a failure to process the facsimile filing when received by the division, the sender may move the administrative law judge or the workers compensation board for an order filing the document nunc pro tunc. The motion shall be accompanied by the transmission record, a copy of the document transmitted, and an affidavit of transmission by fax as set forth in a form specified by the director.

(d) Possession of documents. A party who files by fax shall retain the original document in the party's possession or control during the pendency of the action and shall produce this document upon request by the division, administrative law judge, workers compensation board, or any party to the action. Upon failure to produce such document, the fax may be stricken, and the party may

be subject to sanctions under K.S.A. 44-5,120(d)(20), as amended.

(e) Signatures. A signature reproduced by facsimile transmission shall be treated as an original signature.

(f) Fax filing agency. A party may transmit a document, without page limitation, by fax to a fax filing agency for filing with the division. The fax filing agency shall act as the agent of the filing party and not as an agent of the division.

(g) Service of papers by facsimile transmission.

(1) The division may serve a notice by fax if the notice may be served by mail. The notice may be served by fax on a party who consents to fax service under paragraph (4) of this subsection.

(2) Service of papers may be made by facsimile transmission only in proceedings subject to these regulations and only on an attorney representing a party.

(3) Service by fax shall be made by transmitting the document to the attorney's designated facsimile machine telephone number.

(4) An attorney shall be deemed to consent to service by fax in a proceeding by any of these methods:

(A) filing a document by fax in that proceeding;
(B) serving a document by fax in that proceeding; or

(C) serving a pleading that includes the attorney's fax number on the pleading.

(5) An attorney who consents to fax service shall make his or her fax machine available for receipt of documents between 9:00 a.m. and 5:00 p.m., except on Saturday, Sunday, and legal holidays listed in K.S.A. 60-206(a), as amended. This provision shall not prevent the attorney from sending documents by fax or providing for normal repair and maintenance of the fax machine during these hours.

(6) Service by fax is complete upon generation of a transmission record by the transmitting machine indicating the successful transmission of the entire document. Service that occurs after 5:00 p.m. shall be deemed to have occurred on the next day.

(7) A certificate of service by fax shall include the following:

(A) the date of transmission;
(B) the name and facsimile machine telephone number of the persons served;
(C) a statement that the document was transmitted by facsimile transmission and that the

transmission was reported as complete and without error; and

(D) the signature of the attorney or the person making the transmission. (Authorized by K.S.A. 44-573; implementing K.S.A. 44-534, as amended by L. 1997, Ch. 125, Sec. 8, K.S.A. 1996 Supp. 44-534a, as amended by L. 1997, Ch. 125, Sec. 9, K.S.A. 1996 Supp. 44-551, as amended by L. 1997, Ch. 125, Sec. 12; effective May 22, 1998.)

Article 18.—APPEALS

51-18-1. (Authorized by K.S.A. 1977 Supp. 44-556; effective Jan. 1, 1966; amended Jan. 1, 1969; revoked May 1, 1978.)

51-18-2. Review by workers compensation board. (a) The effective date of the administrative law judge's acts, findings, awards, decisions, rulings, or modifications, for review purposes, shall be the day following the date noted thereon by the administrative law judge.

(b) Application for review by the workers compensation board shall be considered as timely filed only if received in the central office or one of the district offices of the division of workers compensation on or before the tenth day after the effective date of the act of an administrative law judge.

(c) An application for review may be filed by facsimile directly to the division of workers compensation. (Authorized by K.S.A. 44-573; implementing K.S.A. 1996 Supp. 44-525 and K.S.A. 1996 Supp. 44-551, as amended by L. 1997, Ch. 125, Sec. 12; effective Jan. 1, 1966; amended Jan. 1, 1969; amended Jan. 1, 1973; amended May 1, 1983; amended May 22, 1998.)

51-18-3. Applications for review. Applications for review should specify the issues to be considered and the jurisdictional basis for the appeal from a preliminary hearing, pursuant to K.S.A. 1996 Supp. 44-534a, as amended. (Authorized by K.S.A. 44-573; implementing K.S.A. 1996 Supp. 44-551, as amended by L. 1997, Ch. 125, Sec. 12; effective May 22, 1998.)

51-18-4. Time schedule for briefs on review; summary calendar. (a) Following an application for review by the workers compensation board, each brief that a party files shall be served upon opposing counsel and thereafter filed with the workers compensation board, division of workers compensation, according to the following schedule.

(1) The appellant's brief shall be submitted

within 30 days from the date of filing the application for review.

(2) The appellee's brief shall be submitted within 20 days thereafter.

(3) The appellant may submit a reply brief limited to new issues raised in the appellee's brief within 10 days thereafter.

An original and five copies of each brief shall be filed with the workers compensation board. Every brief shall be supplied in two copies to all counsel of record.

(b) The workers compensation board may maintain a summary calendar. If a review involves no new questions of law and if oral argument is not deemed necessary for a fair hearing of the case, the workers compensation board may set the case on the summary calendar. When a case is placed on the summary calendar, it shall be deemed submitted to the board without oral argument unless a motion by one of the parties for oral argument is granted. This motion shall be served on all parties and filed with the board within 10 days after notice of calendaring has been mailed by the board and shall set forth the reasons why it is thought that oral argument would be helpful to the board. (Authorized by K.S.A. 44-573; implementing K.S.A. 1996 Supp. 44-551, as amended by L. 1997, Ch. 125, Sec. 12; effective May 22, 1998.)

51-18-5. Extensions of time. An application for an extension of time for the performance of any act required by any person regarding review by the board shall be addressed to the workers compensation board. No extension shall be granted except on stated grounds reasonably indicating the necessity therefor. The consent of adverse parties to an application shall be considered but shall not be controlling. A copy of any application under this regulation shall be served on all parties. (Authorized by K.S.A. 44-573; implementing K.S.A. 1996 Supp. 44-551, as amended by L. 1997, Ch. 125, Sec. 12; effective May 22, 1998.)

51-18-6. Voluntary dismissals. An application for review by the workers compensation board may be dismissed upon the agreement of all parties to the review. If a settlement is reached, the appellant shall promptly notify the workers compensation board. (Authorized by K.S.A. 44-573; implementing K.S.A. 1996 Supp. 44-551, as amended by L. 1997, Ch. 125, Sec. 12; effective May 22, 1998.)

Article 19.—APPLICATION FOR REVIEW AND MODIFICATION PURSUANT TO K.S.A. 44-528

51-19-1. Review and modification. (a) When there has been an application for review or appeal upon an award and the same is either affirmed or modified, application for review and modification pursuant to K.S.A. 44-528 may still be made to the division. Initial hearings on such applications shall be conducted by an administrative law judge.

(b) Application for review and modification pursuant to K.S.A. 44-528 shall set forth at least one of the reasons contained therein.

(c) Review and modification applications should not be made more than once during any six-month interval except in highly unusual situations. However, upon the completion of vocational rehabilitation, as provided for under this act, the worker, employer, or insurance carrier shall have the right to seek a review and modification of the award rendered, granting any compensation to the employee for any disability. (Authorized by K.S.A. 44-573; implementing K.S.A. 44-510g, 44-528, 44-573; effective Jan. 1, 1966; amended Jan. 1, 1973; amended, E-74-31, July 1, 1974; amended May 1, 1975; amended Feb. 15, 1977; amended May 1, 1978; amended May 22, 1998.)

Article 20.—GUARDS

51-20-1. Failure of employee to use safety guards provided by employer. The director rules that where the rules regarding safety have generally been disregarded by employees and not rigidly enforced by the employer, violation of such rule will not prejudice an injured employee's right to compensation. (Authorized by K.S.A. 1977 Supp. 44-501, 44-573; effective Jan. 1, 1966; amended Jan. 1, 1973; amended Feb. 15, 1977; amended May 1, 1978.)

Article 21.—ASSIGNMENT OF COMPENSATION

51-21-1. Waiver of liability. A worker, under the act, cannot contract with the employer to relieve the latter of liability in case of an accident. (Authorized by K.S.A. 44-573; implementing K.S.A. 44-514, as amended by L. 1997, Ch. 182, Sec. 72; effective Jan. 1, 1966; amended Feb. 15,

1977; amended May 1, 1978; amended May 22, 1998.)

Article 22.—REDEMPTION OF LIABILITY

51-22-1. (Authorized by K.S.A. 1974 Supp. 44-531, 44-573; effective Jan. 1, 1966; amended Jan. 1, 1973; revoked, E-74-31, July 1, 1974; revoked May 1, 1975.)

Article 23.—RELATIONSHIP OF PARTIES

51-23-1. (Authorized by K.S.A. 1977 Supp. 44-508, 44-573; effective Jan. 1, 1966; amended, E-74-31, July 1, 1974; amended May 1, 1975; amended Feb. 15, 1977; revoked May 1, 1978.)

Article 24.—REHABILITATION

51-24-1. Vocational rehabilitation. (a) Each insurance carrier and employer shall furnish to the selected vocational rehabilitation vendor, or at the administrator's request, to the rehabilitation administrator, any medical reports that may be necessary to make an effective vocational rehabilitation determination.

(b) The rehabilitation administrator shall be the coordinator between the parties seeking a vocational assessment and the state or federal vocational rehabilitation agency or a qualified private agency. (Authorized by K.S.A. 44-573; implementing K.S.A. 44-510g; effective May 1, 1976; amended Feb. 15, 1977; amended May 1, 1978; amended May 1, 1983; amended March 30, 1992; amended May 22, 1998; amended June 21, 2002.)

51-24-2. (Authorized by K.S.A. 44-573; implementing K.S.A. 44-510, 44-510g; effective May 1, 1976; amended Feb. 15, 1977; amended May 1, 1983; revoked May 22, 1998.)

51-24-3. Definitions. As used in K.A.R. 51-24-1 through 51-24-10, the following definitions shall apply: (a) "Director" means the director of the Kansas division of workers compensation.

(b) "Job placement specialist" means a person who has provided the director with the necessary proof of eligibility for qualification under K.A.R. 51-24-5(c) and who has received a certification of qualification from the director.

(c) "Office" means a place in which business, professional, or clerical activities are conducted.

An office may be part of a home if both of the following conditions are met:

(1) A portion of the home is regularly and exclusively used only for business.

(2) The home is the principal place for the administrative or management activities of the business or is the principal place for the vendor to meet or deal with patients, clients, or customers in the normal course of business.

(d) "Training facility" means a private agency, facility, or employer rehabilitation service program that has filed with the director the necessary evidence for the director to deem that agency, facility, or employer rehabilitation service program qualified to perform rehabilitation education or training.

(e) "Vendor" means a vocational rehabilitation facility, institution, agency, or employer program pursuant to K.S.A. 44-510g and amendments thereto.

(f) "Vocational rehabilitation counselor" and "counselor" mean a person who has provided the director with the necessary proof of eligibility for qualification under K.A.R. 51-24-5(a) and who has received a certification of qualification from the director.

(g) "Vocational rehabilitation evaluator" and "evaluator" mean a person who has provided the director with the necessary proof of eligibility for qualification under K.A.R. 51-24-5(b) and who has received a certification of qualification from the director. (Authorized by K.S.A. 44-573; implementing K.S.A. 44-510g; effective, T-88-20, July 1, 1987; effective May 1, 1988; amended June 21, 2002.)

51-24-4. Qualifications and duties of a vendor. For vocational rehabilitation cases under the Kansas workers compensation act, each person, firm, or corporation proposing to qualify as a vendor shall file an application with the director. The application shall be updated if changes occur that could affect the standing of the applicant to become or remain qualified. Each application shall include the following: (a) A statement that the person, firm, or corporation will maintain an office in the state of Kansas or in the metropolitan Kansas City area capable of responding to written or telephone inquiries regarding cases referred to that vendor;

(b) the addresses and telephone numbers of the offices within and without the state of Kansas from which vocational rehabilitation services will

be performed for cases under the Kansas workers compensation act;

(c) a listing of each person employed to perform services as a medical manager, counselor, evaluator, or job placement specialist for cases referred to that vendor and an indication of each person's discipline;

(d) a statement that the person, firm, or corporation will employ or contract with one or more persons qualified to perform work as a medical manager, counselor, evaluator, or job placement specialist as necessary to carry out the purpose of the referral;

(e) a statement that the person, firm, or corporation will be responsible for the appropriateness and timeliness of service delivery by each medical manager, counselor, evaluator, and job placement specialist employed or under contract to carry out the purpose of the referral;

(f) a statement indicating whether the person, firm, or corporation wants to be included in the list of vendors qualified and requesting to receive referrals from employers or the director;

(g) a statement that the person, firm, or corporation will report, in a form prescribed by the director, to the vocational rehabilitation administrator each referral received from an employer or insurance carrier and the date of the referral;

(h) a statement that the person, firm, or corporation will report upon the status of each evaluation 30 days after the referral and report upon the status of the evaluation and plan on each occasion upon which changes occur that affect the evaluation or plan. These reports shall be in a form prescribed by the director;

(i) a statement that the person, firm, or corporation will provide copies of all vocational assessments, plans, and progress reports to all parties involved, including attorneys for the claimant and respondent if it is a litigated case;

(j) a statement that the person, firm, or corporation will provide objective and impartial assessments of the injured worker's need for rehabilitation services;

(k) a statement that the person, firm, or corporation acknowledges that the authorization by the director to provide vocational rehabilitation services pursuant to the Kansas workers compensation act and regulations may be suspended or revoked for failure to comply with regulations adopted by the director; and

(l) a statement that the person, firm, or corporation will adhere to the fee schedule pursuant

to K.S.A. 44-510i, and amendments thereto. (Authorized by K.S.A. 44-573; implementing K.S.A. 44-510g; effective, T-88-20, July 1, 1987; effective May 1, 1988; amended Nov. 27, 1989; amended March 30, 1992; amended June 21, 2002.)

51-24-5. Qualifications for counselor, evaluator, and job placement specialist. (a) Each person seeking to qualify as a vocational rehabilitation counselor for cases under the Kansas workers compensation act shall:

(1) furnish proof to the director that the person has:

(A) a masters degree from a nationally accredited program in rehabilitation counselor education; or

(B)(i) a masters degree in counseling, guidance and counseling, clinical psychology, counseling psychology, clinical social work or any related field which includes nine hours of graduate course work in counseling; and

(ii) one year of experience as a vocational rehabilitation counselor or completion of a nationally accredited rehabilitation counselor internship program from a college or university; or

(C) 32 graduate hours from an accredited rehabilitation counseling program, including coursework from at least nine of the following graduate courses:

- (i) Medical aspects of disability;
- (ii) counseling theories;
- (iii) individual and group appraisal;
- (iv) career information service;
- (v) evaluation techniques in rehabilitation;
- (vi) placement process in rehabilitation;
- (vii) psychological aspects of disability;
- (viii) case management in rehabilitation;
- (ix) utilization of community resources;
- (x) survey of rehabilitation;
- (xi) supervised practicum in rehabilitation; or

(D) a bachelors degree in rehabilitation services and three years of experience as a vocational rehabilitation counselor;

(2) furnish the director with the addresses and telephone numbers of that person's offices and the names of the vendors with whom that person is affiliated;

(3) acknowledge that the person's qualification may be suspended or revoked if the person performs work in a rehabilitation discipline other than a discipline in which that person has been found to be qualified by the director; and

(4) acknowledge that the person's qualification

may be suspended or revoked if the person repeatedly fails to file reports with the director in a timely manner or fails to comply with the regulations adopted by the director.

(b) Each person seeking to qualify as a vocational rehabilitation evaluator shall:

(1) furnish proof to the director that the person has:

(A) a masters or doctoral degree in vocational evaluation, rehabilitation counseling or work adjustment, and one year of experience as a vocational evaluator; or

(B) a masters degree in counseling, psychology, adult education or any related field which includes at least nine graduate hours in testing, evaluation and assessment and one year of experience as a vocational evaluator; or

(C) one year of experience as a vocational evaluator and 32 graduate hours from an accredited rehabilitation counseling program, including coursework from at least nine of the following graduate courses:

- (i) Medical aspects of disability;
- (ii) counseling theories;
- (iii) individual and group appraisal;
- (iv) career information service;
- (v) evaluation techniques in rehabilitation;
- (vi) placement process in rehabilitation;
- (vii) psychological aspects in disability;
- (viii) case management in rehabilitation;
- (ix) utilization of community resources;
- (x) survey of rehabilitation; and
- (xi) supervised practicum in rehabilitation; or

(D) a bachelors degree in vocational rehabilitation evaluation, psychology, special education or rehabilitation services and three years of experience as a vocational evaluator under the supervision of a masters degree vocational evaluator;

(2) furnish the director with the addresses and telephone numbers of that person's offices and the names of the vendors with whom that person is affiliated; and

(3) acknowledge that the person's qualification may be suspended or revoked if the person performs work in a rehabilitation discipline other than a discipline in which that person has been found to be qualified by the director; and

(4) acknowledge that the person's qualification may be suspended or revoked if the person repeatedly fails to file reports with the director in a timely manner or fails to comply with the regulations adopted by the director.

(c) Each person seeking to qualify as a vocational rehabilitation job placement specialist shall:

(1) furnish proof to the director that the person has:

(A) a masters or bachelors degree in vocational rehabilitation counseling, vocational counseling, rehabilitation services or job placement; or

(B) a bachelors degree in counseling, sociology, psychology or any related field and one year of experience as a job placement specialist for disabled individuals; or

(C) at least two years of college level education and three years of experience as a job placement specialist for disabled individuals; or

(D) qualified as a vocational rehabilitation counselor under K.A.R. 51-24-5;

(2) furnish the director with the addresses and telephone numbers of the person's offices and the names of the vendors with whom that person is affiliated;

(3) acknowledge that the person's qualification may be suspended or revoked if the person performs work in a rehabilitation discipline other than a discipline in which that person has been found to be qualified by the director; and

(4) acknowledge that the person's qualification may be suspended or revoked if the person fails to file reports with the director in a timely manner or fails to comply with the regulations adopted by the director.

(d) Each person employed by or working under contract as a counselor, evaluator or job placement specialist for the Kansas department of rehabilitation services or other state or federal vocational rehabilitation agency shall be considered qualified in that person's discipline while working for that agency. (Authorized by K.S.A. 1988 Supp. 44-573; implementing K.S.A. 1988 Supp. 44-510g, as amended by 1989 SB 354, Sec. 1; effective, T-88-20, July 1, 1987; effective May 1, 1988; amended Nov. 27, 1989.)

51-24-6. Qualification of private training facility. Before a private training facility begins providing vocational rehabilitation training or education to persons under the Kansas workers' compensation act, the vendor formulating the training plan shall file with the vocational rehabilitation administrator a sufficient description of the course work and qualifications of the individuals performing the training or education to satisfy the vocational rehabilitation administrator that the training is adequate and appropriate to fulfill the

goal of the plan. (Authorized by K.S.A. 44-573; implementing K.S.A. 44-510g, as amended by 1987 HB 2573, Sec. 1; effective, T-88-20, July 1, 1987; effective May 1, 1988.)

51-24-7. (Authorized by K.S.A. 44-573; implementing K.S.A. 44-510g, as amended by 1987 HB 2573, Sec. 1; effective, T-88-20, July 1, 1987; effective May 1, 1988; revoked May 22, 1998.)

51-24-8. Standards of conduct for vocational rehabilitation vendors and vocational rehabilitation professionals. Each vocational rehabilitation vendor (vendor) and vocational rehabilitation professional (professional) who has been authorized by the director to provide vocational rehabilitation services pursuant to the Kansas workers compensation act and regulations: (a) shall adhere to all applicable federal, state and local laws establishing and regulating business practices;

(b) shall adhere to the Kansas workers compensation law and regulations;

(c) shall report any known violation of these standards of conduct using the complaint procedures established in K.A.R. 51-24-9;

(d) shall not circumvent a standard of conduct through the actions of another;

(e) shall not engage in conduct involving dishonesty, fraud, deceit, or misrepresentation;

(f) shall not engage in any conduct that adversely affects the vendor's or professional's fitness to perform assessments, evaluations, plans or any other act to be performed under the Kansas workers compensation act and regulations;

(g) shall not conceal or knowingly fail to disclose that which the vendor or professional is required by law to reveal;

(h) shall not knowingly use perjured testimony or false evidence;

(i) shall not knowingly make false statements of law or fact;

(j) shall not participate in the creation or preservation of evidence which the vendor or professional knows, or should reasonably know, is false;

(k) shall not counsel or assist in conduct that the vendor or professional knows to be illegal or fraudulent;

(l) shall not misrepresent himself or herself, the job duties or credentials of the vendor or professional nor promise results or offer services the vendor or professional has not been approved by the director to provide;

(m) shall not solicit referrals either directly or

indirectly by offering to any one person or firm money or gifts, excluding food and beverages, that have a fair market value of more than \$50 per annum;

(n) shall not accept or continue employment or other contractual relationships if the exercise of professional judgement by the vendor or professional will be affected by financial, business, property, or personal interests of the vendor or professional;

(o) shall not accept a referral of a person who may unduly influence the vendor's or professional's actions;

(p) shall not provide any services in investigation of claims or negotiating for, or attempting to effect the settlement of a claim;

(q) shall not request a medical provider to change restrictions or ratings issued by that medical provider. The furnishing of occupational and medical information to a medical provider so that the medical provider has adequate information on which to base a medical decision shall not be considered as a request that a medical provider change a restriction or rating;

(r) shall not accompany the injured worker during medical treatment or medical consultations if either the injured worker or the medical provider objects to the presence of the vendor or professional;

(s) shall not attempt to interpret the workers compensation act or regulations for a party but shall, at the first interview with an injured worker, furnish to the injured worker information prepared by the director for such purpose and maintain in the case file acknowledgement from the injured worker that such information was furnished;

(t) shall not communicate as to the merits of a litigated case or request specific case direction from the administrative law judge or hearing officer before whom the case is pending nor the rehabilitation administrator assigned except:

(1) in the course of the official proceedings in the case;

(2) in writing, if a copy is promptly furnished to each party or each party's attorney; or

(3) as otherwise authorized by law; and

(u) shall establish a bookkeeping system which insures that all charges made by the vendor or professional are for actual services rendered and that reports to the director regarding such charges are accurate and reflect entirely the consideration asked and given for services in each case. (Au-

thorized by K.S.A. 1991 Supp. 44-573; implementing K.S.A. 1991 Supp. 44-510g; effective March 30, 1992.)

51-24-9. Procedure for reviewing and processing complaints of violations of standards of conduct. (a) Individuals and firms approved by the director as qualified vocational rehabilitation professionals and vendors under K.A.R. 51-24-1 et seq., shall be subject to disciplinary action for violation of the standards of conduct set forth in K.A.R. 51-24-8.

(b) Oral or unsigned complaints of violations of the standards of conduct shall be considered as informal complaints and shall be handled by the director or administrator as deemed appropriate.

(c) Complaints of standards of conduct violations that are in writing and signed by the complaining party shall be considered formal complaints.

(d) The following procedure shall be used to address formal complaints of standards of conduct violations: (1) Each formal complaint of standards of conduct violations shall be in writing, signed by the complaining party and directed to the administrator. The complaint shall identify the vendor or professional complained of (hereinafter referred to as respondent), the nature of the violation and a statement of the facts constituting the violation.

(2) A copy of the complaint shall be sent by the administrator to each respondent by certified mail, return receipt requested. The complaining party shall be notified by the administrator of receipt of the complaint.

(3) Each respondent shall have 30 days from the date of the certified receipt to deliver to the administrator a factual written response to each particular of the complaint. If requested in writing by respondent before the expiration of the 30-day response time, one 30-day extension of time to file a response may be granted by the administrator. Failure to provide a timely written response to the administrator shall result in immediate suspension of the qualification of the respondent. This suspension shall remain in effect until the response is received or until appropriate hearing processes are completed.

(4) Each respondent shall cooperate fully with attempts at resolving the complaint. Cooperation shall include: (A) responding fully and promptly to the administrator, administrative law judge or

hearing officer concerning any questions on the subject of the complaint;

(B) providing copies of pertinent records, reports, logs, data or cost information; and

(C) attending meetings or hearings held by the administrator, administrative law judge or hearing officer on the subject of the complaint.

(5) Meetings with the complaining party and the respondent, individually or jointly, may be scheduled by the administrator prior to the appointment of an administrative law judge or hearing officer for: (A) clarification;

(B) explanation;

(C) settlement of issues;

(D) obtaining information;

(E) instructing parties to the complaint; or

(F) to address the issues.

(6) Upon receipt of a response, the complaint and response shall be reviewed by the administrator and, within 30 days, a conclusion shall be reached by the administrator as to whether there is sufficient indication that respondent may have violated the standards of conduct.

(7) If the administrator concludes that there is not substantial indication that respondent violated the standards of conduct, the complaint shall be dismissed by the administrator. The complaining party and the respondent shall be notified by the administrator of the actions of the administrator and the reasons for the conclusions reached.

(8) If the administrator concludes that there is a substantial indication that respondent may have violated the standards of conduct, an administrative law judge or hearing officer shall be appointed by the director to hear the complaint. The administrative law judge or hearing officer shall conduct a hearing or hearings and make recommendations as to whether disciplinary action should be taken, and if so, recommend the degree and type of discipline warranted.

(9) Any evidentiary hearing conducted by the administrative law judge or hearing officer regarding the complaint shall be recorded verbatim by a certified shorthand reporter. If there is a decision not to discipline the respondent, the verbatim notes of the reporter shall not be transcribed. However, such notes shall be retained as part of the records of the division of workers compensation. If there is a decision to discipline the respondent, the recording of the hearing shall be transcribed and retained as part of the records of the division of workers compensation. Costs of the

shorthand reporter shall be assessed to respondent if it is found discipline is warranted.

(10) If within 10 days the complaining party, respondent or administrator request a review of the recommendations of the administrative law judge or hearing officer, a review, de novo, shall be conducted by the director on the record of the hearing or hearings and the recommendations of the administrative law judge or hearing officer.

(11) Within 20 days after completion of the review, a decision shall be entered by the director which may either affirm, modify or reverse the decision of the administrative law judge or hearing officer. The director's determination shall be in writing, with copies sent to the: (A) administrative law judge or hearing officer;

(B) administrator;

(C) complaining party; and

(D) respondent.

(12) Any action of the director shall be subject to judicial review in accordance with the act for judicial review and civil enforcement of agency actions, K.S.A. 77-601 et seq. and amendments thereto.

(e) If disciplinary measures are imposed on a professional at the final level of hearing or appeal, and the disciplinary measures taken prevent the professional from completing all or part of the rehabilitation process on a case or cases assigned to the professional, the vendor for whom the disciplined professional was performing services shall effect the reassignment of the case to another professional.

(f) If disciplinary measures are imposed on a vendor at the final level of hearing or appeal, and the disciplinary measures taken prevent the ven-

dor from completing all or part of the rehabilitation process on a case or cases assigned to the vendor, the administrator shall effect the reassignment of the case to another vendor. (Authorized by K.S.A. 1990 Supp. 44-573; implementing K.S.A. 44-510g, as amended by 1991 HB 2457, Sec. 4; effective March 30, 1992.)

51-24-10. Penalties for violations of standards of conduct. If a person or firm qualified by the director pursuant to K.A.R. 51-24-4 or K.A.R. 51-24-5 is found, following the procedure in K.A.R. 51-24-9, to have violated the standards of conduct set out in K.A.R. 51-24-8, any combination of the following disciplinary measures may be imposed:

(a) the respondent may be issued a letter of censure by the director;

(b) the respondent may be required to create and implement a written corrective action plan acceptable to the director;

(c) the respondent may be prohibited from undertaking work on any new cases for a stated period of time;

(d) the respondent may be prohibited from working on the respondent's existing caseload for a stated period of time;

(e) the respondent may be permanently or temporarily prohibited from accepting cases from specific referral sources;

(f) the respondent's qualification may be revoked for a stated period of time; or

(g) the respondent's qualification may be revoked permanently. (Authorized by K.S.A. 1990 Supp. 44-573; implementing K.S.A. 44-510g, as amended by 1991 HB 2457, Sec. 4; effective March 30, 1992.)